U.S. Army Corps of Engineers

DISTRICT OFFICE: CESWG-PE-RCC **FILE NUMBER: 23926(01)** PROJECT LOCATION INFORMATION: State: Texas Willacy County: Center coordinates of site (latitude/longitude): 26-33-06/97-25-17 Approximate size of area (parcel) reviewed, including uplands: 18 acres. Name of nearest waterway: Laguna Madre Name of watershed: Laguna Madre JURISDICTIONAL DETERMINATION Completed: Desktop determination Date: X Site visit(s) Date(s): 23 Oct 2006 Jurisdictional Determination (JD): Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: ☐ There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: Waters defined under 33 CFR part 329 as "navigable waters of the United States": The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (2) The presence of interstate waters including interstate wetlands<sup>1</sup>. (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply): (i) which are or could be used by interstate or foreign travelers for recreational or other purposes. (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce. (iii) which are or could be used for industrial purposes by industries in interstate commerce.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

(4) Impoundments of waters otherwise defined as waters of the US.
 (5) The presence of a tributary to a water identified in (1) – (4) above.

(6) The presence of territorial seas.

2 FILE NUMBER: 23926(01) Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329) Ordinary High Water Mark indicated by: High Tide Line indicated by: clear, natural line impressed on the bank oil or scum line along shore objects the presence of litter and debris fine shell or debris deposits (foreshore) changes in the character of soil physical markings/characteristics destruction of terrestrial vegetation tidal gages shelving other: other: Mean High Water Mark indicated by: ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types. Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: **Basis For Not Asserting Jurisdiction:** The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States: Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. 雨 Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  $\Box$ Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain): Old Corps previously used dredged material placement area. DATA REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply): Maps, plans, plots or plat submitted by or on behalf of the applicant.

Data sheets prepared/submitted by or or behalf of the applicant. This office concurs with the delineation report, dated , prepared by (company): This office does not concur with the delineation report, dated , prepared by (company): Data sheets prepared by the Corps. Corps' navigable waters' studies: U.S. Geological Survey Hydrologic Atlas: U.S. Geological Survey 7.5 Minute Topographic maps: Port Mansfield, Texas U.S. Geological Survey 7.5 Minute Historic quadrangles: U.S. Geological Survey 15 Minute Historic quadrangles: USDA Natural Resources Conservation Service Soil Survey: Wllacy County National wetlands inventory maps: Port Mansfield, Texas State/Local wetland inventory maps: FEMA/FIRM maps (Map Name & Date): 100-year Floodplain Elevation is: (NGVD) Aerial Photographs (Name & Date): TNRIS 1995, 2003, 2004

Other photographs (Date):

Applicable/supporting case law:
Other information (please specify):

Advanced Identification Wetland maps:

Site visit/determination conducted on: 23 Oct 2006

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG-PE-RCC

FILE NUMBER: D-19051

### PROJECT LOCATION INFORMATION:

State: TX County: Cameron

27-07-03/87-10-16 Center coordinates of site (latitude/longitude): Approximate size of area (parcel) reviewed, including uplands: 0.25 acres.

Name of nearest waterway: Laguna Madre Name of watershed: Laguna Madre

#### JURISDICTIONAL DETERMINATION

**Completed:** Desktop determination Date: 2 Nov 2006

Site visit(s) X Date(s): 8 November 2006

J	urisd	lictional	Determination	(JD)	١:

	Preliminary JD - Based on available information, \( \subseteq \text{there appear to be (or)} \subseteq there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
$\boxtimes$	Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:
	☑ There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.10 ac
	☐ There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.23 acres.
	There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No.

#### BASIS OF JURISDICTIONAL DETERMINATION:

Jurisdiction.

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
- $\Box$  (5) The presence of a tributary to a water identified in (1) (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Wetlands are adjacent and contiguous to tidal waters.

FILE NUMBER: D-19051 Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329) Ordinary High Water Mark indicated by: High Tide Line indicated by: clear, natural line impressed on the bank oil or scum line along shore objects fine shell or debris deposits (foreshore) the presence of litter and debris changes in the character of soil physical markings/characteristics destruction of terrestrial vegetation tidal gages shelving other: other: Mean High Water Mark indicated by: ✓ survey to available datum; ☐ physical markings; ☒ vegetation lines/changes in vegetation types. Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Belaire Environmental Inc./Mejia & Rose, Inc. survey for D-16908. **Basis For Not Asserting Jurisdiction:** The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States: Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. Ħ Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain): DATA REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply): Maps, plans, plots or plat submitted by or on behalf of the applicant. Data sheets prepared/submitted by or on behalf of the applicant. This office concurs with the delineation report, dated , prepared by (company): Not yet confirmed This office does not concur with the delineation report, dated , prepared by (company): Data sheets prepared by the Corps. Corps' navigable waters' studies: U.S. Geological Survey Hydrologic Atlas: U.S. Geological Survey 7.5 Minute Topographic maps: Port Isabel, TX U.S. Geological Survey 7.5 Minute Historic quadrangles: U.S. Geological Survey 15 Minute Historic quadrangles: USDA Natural Resources Conservation Service Soil Survey: National wetlands inventory maps: Port Isabel, TX State/Local wetland inventory maps: FEMA/FIRM maps (Map Name & Date): 100-year Floodplain Elevation is: (NGVD) Aerial Photographs (Name & Date): 2004 DOQQ Other photographs (Date): Advanced Identification Wetland maps: Site visit/determination conducted of Applicable/supporting case law:
Other information (please specify): Site visit/determination conducted on: 8 November 2006

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE: CESWG-PE-RCC** 

FILE NUMBER: D-18768

PD	OIECT	ГІ	റഗ	rion.	INFOR	MA	TION:
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State: Texas County: Cameron

Center coordinates of site (latitude/longitude): 26-12-44/97-10-49 Approximate size of area (parcel) reviewed, including uplands: 33 acres.

Name of nearest waterway: Laguna Madre Name of watershed: Laguna Madre

### JURISDICTIONAL DETERMINATION

gui iguictional Detel Illination (gr	dictional Determination	n ((	JD	)
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	Preliminary JD - Based on available information, $\square$ there appear to be (or) $\square$ there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
$\boxtimes$	Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:
	There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 3 acres.
	☑ <i>There are</i> "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 30 acres.
	☐ There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  ☐ Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No.

## BASIS OF JURISDICTIONAL DETERMINATION:

Jurisdiction.

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
   (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Wetlands adjacent to Laguna Madre and waters of the U.S. up to the high tide line.

2 FILE NUMBER: D-18768 Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329) Ordinary High Water Mark indicated by: clear, natural line impressed on the bank oil or scum line along shore objects fine shell or debris deposits (foreshore) the presence of litter and debris changes in the character of soil physical markings/characteristics destruction of terrestrial vegetation tidal gages other: Sta. 51 tide record for 11/7/06. shelving other: Mean High Water Mark indicated by: survey to available datum; physical markings; vegetation lines/changes in vegetation types. Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Basis For Not Asserting Jurisdiction: The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States: Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. П Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain): DATA REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply): Maps, plans, plots or plat submitted by or on behalf of the applicant. Data sheets prepared/submitted by or on behalf of the applicant. This office concurs with the delineation report, dated , prepared by (company): This office does not concur with the delineation report, dated , prepared by (company): Data sheets prepared by the Corps. Corps' navigable waters' studies: U.S. Geological Survey Hydrologic Atlas: U.S. Geological Survey 7.5 Minute Topographic maps: Port Isabel, NW, TX U.S. Geological Survey 7.5 Minute Historic quadrangles: U.S. Geological Survey 15 Minute Historic quadrangles: USDA Natural Resources Conservation Service Soil Survey: National wetlands inventory maps: Port Isabel NW, TX State/Local wetland inventory maps: FEMA/FIRM maps (Map Name & Date): (NGVD) 100-year Floodplain Elevation is: Aerial Photographs (Name & Date): TNRIS 1995, 2004 Other photographs (Date):

Advanced Identification Wetland maps:

Applicable/supporting case law:
Other information (please specify):

Site visit/determination conducted on: 8 Nov 2006

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE: CESWG-PE-RCC** 

FILE NUMBER: D-19165 #1

Stat Cou Cen App Nar	te: TEX unty: Nuc ter coordinates proximate size	XAS eces s of site (latitude/longitud of area (parcel) reviewed, raterway: none d: Baffin Bay		27 -46-42.1309 / 97 -41-51.0700 uplands: 240q acres.
	npleted: Des	DETERMINATION sktop determination e visit(s)		Date: November 9, 2006 Date(s):
Jur	isdictional De	termination (JD):		
	United States			☐ there appear to be (or) ☐ there appear to be no "waters of the nited States" on the project site. A preliminary JD is not appealable
	Approved JD Check all that		ppealable	action (Reference 33 CFR part 331).
		"navigable waters of the area. Approximate size of		ates" (as defined by 33 CFR part 329 and associated guidance) within ional area:
		"waters of the United Sta a. Approximate size of ju		efined by 33 CFR part 328 and associated guidance) within the all area:
	☐ There are			te waters or wetlands" within the reviewed area.  NCC/Migratory Bird Rule Information Sheet for Determination of No
	Waters define The presence	of waters that are subject	329 as "na to the ebb	vigable waters of the United States": and flow of the tide and/or are presently used, or have been used in the interstate or foreign commerce.
B.	(1) The prese interstate or f (2) The prese (3) The prese sandflats, wet destruction of (ii) which (iii) from (iii) which (4) Impound (5) The prese (6) The prese	nce of waters, which are of oreign commerce, including not of interstate waters in nce of other waters such a tlands, sloughs, prairie pof which could affect intersor are or could be used by which fish or shellfish are or could be used for nents of waters otherwise nce of a tributary to a walnce of territorial seas.	currently using all water cluding in as intrastate tholes, we state commenterstate or could reindustrial defined as ter identification.	e lakes, rivers, streams (including intermittent streams), mudflats, t meadows, playa lakes, or natural ponds, the use, degradation or herce including any such waters (check all that apply): or foreign travelers for recreational or other purposes. be taken and sold in interstate or foreign commerce. I purposes by industries in interstate commerce.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

**FILE NUMBER:** D-19165 #1

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329) Ordinary High Water Mark indicated by: High Tide Line indicated by: oil or scum line along shore objects fine shell or debris deposits (foreshophysical markings/characteristics clear, natural line impressed on the bank fine shell or debris deposits (foreshore) the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation tidal gages shelving other: other: Mean High Water Mark indicated by: ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types. Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: **Basis For Not Asserting Jurisdiction:** The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States: Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. Artificial reflecting or swimming pools or other small ornamental bodies of water created П by excavating and/or diking dry land to retain water for primarily aesthetic reasons. Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service, Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain): DATA REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply): Maps, plans, plots or plat submitted by or on behalf of the applicant. Data sheets prepared/submitted by or on behalf of the applicant. This office concurs with the delineation report, dated , prepared by (company): ☐ This office does not concur with the delineation report, dated , prepared by (company): Data sheets prepared by the Corps. Corps' navigable waters' studies: U.S. Geological Survey Hydrologic Atlas: U.S. Geological Survey 7.5 Minute Topographic maps: Robstown U.S. Geological Survey 7.5 Minute Historic quadrangles: U.S. Geological Survey 15 Minute Historic quadrangles: USDA Natural Resources Conservation Service Soil Survey: State/Local wetland inventory maps: FEMA/FIRM maps (Map Name & Date): 100-year Floodplain Elevation is: (NGVD) Aerial Photographs (Name & Date): Google 2006; Windows Live Local 2006 Other photographs (Date): Advanced Identification Wetland maps: Site visit/determination conducted on: Applicable/supporting case law: Other information (please specify):

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG-PE-RCC FILE NUMBER: D-19165 #2

Stat Cou Cen App Nar	e: TEXAS inty: Nueces iter coordinates of site (latitude/lo proximate size of area (parcel) rev ine of nearest waterway: none ine of watershed: Baffin Bay	ngitude):	27 -46-43.7155 / 97 -40-52.0127 g uplands: 240q acres.
	npleted: Desktop determination Site visit(s)	- ·	Date: November 9, 2006 Date(s):
Jur	isdictional Determination (JD):		
			there appear to be (or) there appear to be no "waters of the Inited States" on the project site. A preliminary JD is not appealable
	Approved JD – An approved JD Check all that apply:	is an appealable	e action (Reference 33 CFR part 331).
	☐ There are "navigable waters the reviewed area. Approximate		ates" (as defined by 33 CFR part 329 and associated guidance) within tional area:
	There are "waters of the Unireviewed area. Approximate size"		defined by 33 CFR part 328 and associated guidance) within the al area:
		pported by SWA	ate waters or wetlands" within the reviewed area.  NCC/Migratory Bird Rule Information Sheet for Determination of No
BASIS (	The presence of waters that are s	part 329 as "na subject to the ebb	avigable waters of the United States": o and flow of the tide and/or are presently used, or have been used in ort interstate or foreign commerce.
B	(1) The presence of waters, which interstate or foreign commerce, (2) The presence of interstate was (3) The presence of other waters sandflats, wetlands, sloughs, pradestruction of which could affect (i) which are or could be us (ii) from which fish or shell (iii) which are or could be us (4) Impoundments of waters oth (5) The presence of a tributary to (6) The presence of territorial see	ch are currently usincluding all wall aters including in such as intrasta- irie potholes, we it interstate commed by interstate of liftsh are or could used for industrial erwise defined a of a water identificats.	te lakes, rivers, streams (including intermittent streams), mudflats, et meadows, playa lakes, or natural ponds, the use, degradation or nerce including any such waters (check all that apply): or foreign travelers for recreational or other purposes. I be taken and sold in interstate or foreign commerce. In purposes by industries in interstate commerce. It is waters of the US.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

**FILE NUMBER:** D-19165 #2 Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329) Ordinary High Water Mark indicated by: High Tide Line indicated by: oil or scum line along shore objects
fine shell or debris deposits (force) clear, natural line impressed on the bank fine shell or debris deposits (foreshore) the presence of litter and debris changes in the character of soil physical markings/characteristics destruction of terrestrial vegetation tidal gages shelving other: other: Mean High Water Mark indicated by: survey to available datum; physical markings; vegetation lines/changes in vegetation types. Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Basis For Not Asserting Jurisdiction: The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States: Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain): DATA REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply): Maps, plans, plots or plat submitted by or on behalf of the applicant. Data sheets prepared/submitted by or on behalf of the applicant. This office concurs with the delineation report, dated , prepared by (company): This office does not concur with the delineation report, dated , prepared by (company): Data sheets prepared by the Corps. Corps' navigable waters' studies: U.S. Geological Survey Hydrologic Atlas: ☑ U.S. Geological Survey 7.5 Minute Topographic maps: Robstown U.S. Geological Survey 7.5 Minute Historic quadrangles: U.S. Geological Survey 15 Minute Historic quadrangles: USDA Natural Resources Conservation Service Soil Survey: National wetlands inventory maps: State/Local wetland inventory maps: FEMA/FIRM maps (Map Name & Date): 100-year Floodplain Elevation is: (NGVD) Aerial Photographs (Name & Date): Google 2006; Windows Live Local 2006 Other photographs (Date): Advanced Identification Wetland maps: Site visit/determination conducted on:

Applicable/supporting case law:
Other information (please specify):

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG-PE-RCC

**FILE NUMBER:** D-19165 #3

( ( ) (	State: County: Center coord Approximate	TEXAS Nueces inates of site size of area rest waterwa			27 -47-17.0741 / 97 -41-43.9578 uplands: 240q acres.
			MINATION etermination	×	Date: November 9, 2006 Date(s):
J	urisdictiona	al Determin	ation (JD):		
[	United S	nary JD - Bas States" and/o nce 33 CFR p	r "navigable water	formation, rs of the U	there appear to be (or) there appear to be no "waters of the nited States" on the project site. A preliminary JD is not appealable
[		ed JD – An a II that apply:		appealable	action (Reference 33 CFR part 331).
			able waters of the approximate size of		ates" (as defined by 33 CFR part 329 and associated guidance) within ional area:
	Ther	e are "water d area. Appr	s of the United Staroximate size of ju	ntes" (as d	efined by 33 CFR part 328 and associated guidance) within the larea:
	☐ Ther				te waters or wetlands" within the reviewed area.  NCC/Migratory Bird Rule Information Sheet for Determination of No
A	Waters The pres	defined und sence of wate	ers that are subject	329 as "na to the ebb	vigable waters of the United States": and flow of the tide and/or are presently used, or have been used in the interstate or foreign commerce.
	(1) The interstate (2) The (3) The sandflate destruction (ii) (iii) (iii) (4) Impo (5) The (6) The	presence of very presence of its presence of of s, wetlands, sion of which which are or from which which are or from which of which are of the presence of a presence of the p	waters, which are of commerce, including the state waters in other waters such a sloughs, prairie por could affect intersecould be used by if ish or shellfish are recould be used for waters otherwise a tributary to a water itorial seas.	currently using all water cluding in as intrastate tholes, we state commenterstate of e or could reindustrial defined as ter identification.	"waters of the United States": sed, or were used in the past, or may be susceptible to use in ers which are subject to the ebb and flow of the tide. terstate wetlands <sup>1</sup> . e lakes, rivers, streams (including intermittent streams), mudflats, t meadows, playa lakes, or natural ponds, the use, degradation or herce including any such waters (check all that apply): or foreign travelers for recreational or other purposes. be taken and sold in interstate or foreign commerce. I purposes by industries in interstate commerce. So waters of the US. ed in (1) – (4) above.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

FILE NUMBER: D-19165 #3 Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329) Ordinary High Water Mark indicated by: High Tide Line indicated by: oil or scum line along shore objects fine shell or debris deposits (foreshophysical markings/characteristics clear, natural line impressed on the bank fine shell or debris deposits (foreshore) the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation tidal gages shelving other: other: Mean High Water Mark indicated by: ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types. Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: **Basis For Not Asserting Jurisdiction:** The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States: Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. П Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain): DATA REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply): Maps, plans, plots or plat submitted by or on behalf of the applicant. Data sheets prepared/submitted by or on behalf of the applicant. This office concurs with the delineation report, dated , prepared by (company): This office does not concur with the delineation report, dated , prepared by (company): Data sheets prepared by the Corps. Corps' navigable waters' studies: U.S. Geological Survey Hydrologic Atlas: U.S. Geological Survey 7.5 Minute Topographic maps: Robstown U.S. Geological Survey 7.5 Minute Historic quadrangles: U.S. Geological Survey 15 Minute Historic quadrangles: USDA Natural Resources Conservation Service Soil Survey: National wetlands inventory maps: State/Local wetland inventory maps: FEMA/FIRM maps (Map Name & Date): 100-year Floodplain Elevation is: (NGVD) Aerial Photographs (Name & Date): Google 2006; Windows Live Local 2006 Other photographs (Date): Advanced Identification Wetland maps: Site visit/determination conducted on:

Applicable/supporting case law:
Other information (please specify):

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CE-SWG **FILE NUMBER:** D-19168

<b>PROJE</b>	CT LOCATION INFORMATION:	
Stat	te: TX	
	ınty: Aransas	
	nter coordinates of site (latitude/longitude):	N 27.98346 W 97.08668
	proximate size of area (parcel) reviewed, inclu	iding uplands: 7.9 acres.
	ne of nearest waterway: Redfish Bay	
Nan	ne of watershed: Redfish Bay	
JURISD	DICTIONAL DETERMINATION	
Con	mpleted: Desktop determination	Date: 11/9/06
	Site visit(s)	Date(s):
Jur	isdictional Determination (JD):	
Ø	Preliminary JD - Based on available informa	ation, $\square$ there appear to be (or) $\boxtimes$ there appear to be no "waters of the
		he United States" on the project site. A preliminary JD is not appealable
	(Reference 33 CFR part 331).	The second secon
	Approved JD - An approved JD is an appea	lable action (Reference 33 CFR part 331).
	Check all that apply:	• •
		ed States" (as defined by 33 CFR part 329 and associated guidance) within
	the reviewed area. Approximate size of juris	sdictional area: .
		(as defined by 33 CFR part 328 and associated guidance) within the
	reviewed area. Approximate size of jurisdic	tional area:
		a two strains and
		a-state waters or wetlands" within the reviewed area.
		SWANCC/Migratory Bird Rule Information Sheet for Determination of No
	Jurisdiction.	
DACIC	OF JURISDICTIONAL DETERMINATIO	N.
	Waters defined under 33 CFR part 329 as	
â		e ebb and flow of the tide and/or are presently used, or have been used in
ш	the past, or may be susceptible for use to tra	
	the past, of may be susceptible for use to tra	insport interstate of foreign commerce.
В.	Waters defined under 33 CFR part 328.30	(a) as "waters of the United States":
		only used, or were used in the past, or may be susceptible to use in
		I waters which are subject to the ebb and flow of the tide.
	(2) The presence of interstate waters includi	
		rastate lakes, rivers, streams (including intermittent streams), mudflats,
_		s, wet meadows, playa lakes, or natural ponds, the use, degradation or
		commerce including any such waters (check all that apply):
		tate or foreign travelers for recreational or other purposes.
		could be taken and sold in interstate or foreign commerce.
		ustrial purposes by industries in interstate commerce.
	(4) Impoundments of waters otherwise defin	
	(5) The presence of a tributary to a water ide	
2	(6) The presence of territorial seas.	
	(7) The presence of wetlands adjacent <sup>2</sup> to ot	her waters of the US, except for those wetlands adjacent to other wetlands.
	•	-

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

	eral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  □ clear, natural line impressed on the bank □ the presence of litter and debris □ changes in the character of soil □ destruction of terrestrial vegetation □ shelving □ other: □ other: □ destruction of terrestrial vegetation □ other: □ other:
A S	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
All A	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):
	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Estes, TX  U.S. Geological Survey 7.5 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Actual Resources Conservation Service Soil Survey:  National wetlands inventory maps: Estes, TX  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Name & Date): GLO 2002, 2004  Other photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify):

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE: CESWG** FILE NUMBER: D-18871

#### PROJECT LOCATION INFORMATION:

State: Texas County: Brazoria

Center coordinates of site (latitude/longitude): Site-1 28 57' 50" N, 95 16' 24" W

Site-2 29 02' 49" N, 95 09' 41" W

Approximate size of area (parcel) reviewed, including uplands: Site-1 0.48-acre, Site-2 28.0-acres.

Name of nearest waterway: Swan Lake and Christmas Bay

Name of watershed: Austin-Oyster

#### JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date: 12 November 2006 Site visit(s) Date(s): 14 September 2006

#### Jurisdictional Determination (JD):

<b>(4)</b>	Preliminary JD - Based on available information, $\square$ there appear to be (or) $\square$ there appear to be no "waters of the
	United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable
	(Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

☑ There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

☑ There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

# BASIS OF JURISDICTIONAL DETERMINATION:

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- Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- (2) The presence of interstate waters including interstate wettains.

  (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, the latest presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, and the latest presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, and the latest presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, and the latest presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, and the latest presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, and the latest presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, and the latest presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, and the latest presence of other waters are such as intrastate lakes, rivers, and the latest presence of other waters are such as intrastate lakes, rivers, and the latest presence of other waters are such as intrastate lakes, rivers, and the latest presence of other waters are such as intrastate lakes, rivers, and the latest presence of other waters are such as intrastate lakes, rivers, and the latest presence of other waters are such as intrastate lakes, rivers, and the latest presence of other waters are such as intrastate lakes, rivers, and the latest presence of other waters are such as intrastate lakes, rivers, and the latest presence of other waters are such as intrastate lakes, rivers, and rivers are such as intrastate lakes, rivers are such as intrastate lakes, rivers are such as intrastate lakes, rivers are such destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
  - (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Swan Lake and Christmas Bay are both navigable waters of the United States subject to the ebb and flow of the daily tide. As such, they are subject to Corps jurisdiction under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. Both project sites contain wetlands that are contiguous with one of the navigable waters of the United States. As such, these adjacent wetlands are subject to Corps jurisdiction under Section 404 of the Clean Water Act.

FILE NUMBER: D-18871

	eral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  Clear, natural line impressed on the bank  High Tide Line indicated by:  Oil or scum line along shore objects					
	the presence of litter and debris fine shell or debris deposits (foreshore) hanges in the character of soil physical markings/characteristics					
	destruction of terrestrial vegetation tidal gages					
	shelving other:					
<b>(8)</b>	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.					
E	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: This was a Jurisdictional Determination only, the extent of jurisdiction was not determined.					
	is For Not Asserting Jurisdiction:					
	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).					
	Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the					
****	United States:					
	Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.					
	Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or					
	rice growing.					
	Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.					
	Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR					
	328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.					
	Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:					
	Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):					
DAT <u>A</u> F	REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):					
<b>國</b>	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.					
	☐ This office concurs with the delineation report, , prepared by: ☐ This office does not concur with the delineation report, , prepared by:					
Ճ	Data sheets prepared by the Corps.					
<b>28</b>	Corps' navigable waters' studies: U.S. Geological Survey Hydrologic Atlas:					
	U.S. Geological Survey 7.5 Minute Topographic maps: Freeport, Texas and Christmas Bay, Texas quads U.S. Geological Survey 7.5 Minute Historic quadrangles:					
	U.S. Geological Survey 15 Minute Historic quadrangles: USDA Natural Resources Conservation Service Soil Survey: Brazoria County, Texas					
X	National wetlands inventory maps: Freeport, Texas and Christmas Point, Texas quads					
	State/Local wetland inventory maps: FEMA/FIRM maps (Map Name & Date):					
<b>≅</b>	100-year Floodplain Elevation is: (NGVD) Aerial Photographs (Name & Date): 2002 Surfside, Texas true color and 2004 Napier CIR Christmas Point, Texas quad					
#2 ***	Other photographs (Date): Advanced Identification Wetland maps:					
×	Site visit/determination conducted on: 14 September 2006					
緣	Applicable/supporting case law: Other information (please specify):					

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** Galveston District FILE NUMBER: 24301 PROJECT LOCATION INFORMATION: State: Texas County: San Patricio Center coordinates of site (latitude/longitude): 27-50-36.19 97-13-29.75 Approximate size of area (parcel) reviewed, including uplands: appr 1 acres. Name of nearest waterway: Corpus Christi Bay Corpus Christi Bay Name of watershed: JURISDICTIONAL DETERMINATION Completed: Desktop determination  $\boxtimes$ Date: 13 November 2006 7 Site visit(s) Date(s): Jurisdictional Determination (JD): Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: ☑ There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.07 acre. ☐ There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: ☐ There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: A. Waters defined under 33 CFR part 329 as "navigable waters of the United States": The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (2) The presence of interstate waters including interstate wetlands. (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats,

sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply): (i) which are or could be used by interstate or foreign travelers for recreational or other purposes. (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce. (iii) which are or could be used for industrial purposes by industries in interstate commerce. (4) Impoundments of waters otherwise defined as waters of the US. (5) The presence of a tributary to a water identified in (1) – (4) above. (6) The presence of territorial seas.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Proposed project located in Corpus Christi Bay, a navigable water with 2 federal waterways

	FILE NUMBER: 24301
La [**]	Ordinary High Water Mark indicated by:  I clear, natural line impressed on the bank I the presence of litter and debris Changes in the character of soil Adstruction of terrestrial vegetation Shelving Ordinary High Water Mark indicated by: High Tide Line indicated by: Oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other: Other:
Ţ.	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Bas	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):
	REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: Galveston FILE NUMBER: D-19124 PROJECT LOCATION INFORMATION: State: Texas County: San Patricio Center coordinates of site (latitude/longitude): 28-01-51.01 E; 97-30-25.78 N Approximate size of area (parcel) reviewed, including uplands: 80.0 acres. Name of nearest waterway: Chiltipin Creek Name of watershed: Aransas JURISDICTIONAL DETERMINATION Completed: Desktop determination Date: 13 November 2006 Site visit(s) Date(s): Jurisdictional Determination (JD):  $\square$  Preliminary JD - Based on available information,  $\square$  there appear to be (or)  $\square$  there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: <u>0.0</u> acre. There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.00 acre. There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: Waters defined under 33 CFR part 329 as "navigable waters of the United States": The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (2) The presence of interstate waters including interstate wetlands. (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply): (i) which are or could be used by interstate or foreign travelers for recreational or other purposes. (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce. (iii) which are or could be used for industrial purposes by industries in interstate commerce. (4) Impoundments of waters otherwise defined as waters of the US.  $\Box$  (5) The presence of a tributary to a water identified in (1) – (4) above. (6) The presence of territorial seas. (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

# FILE NUMBER: D-19124

	eral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:    clear, natural line impressed on the bank   oil or scum line along shore objects   fine shell or debris deposits (foreshore)   physical markings/characteristics   destruction of terrestrial vegetation   other: other:
ii)	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
Ş	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
	The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Project involves directional drilling under levee for elevated ditch.  Other (explain):
	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated, prepared by (company):  This office does not concur with the delineation report, dated, prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic map: Sinton West, Texas  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Autural Resources Conservation Service Soil Survey:  National wetlands inventory maps: Sinton West, Texas  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Name & Date): USDA, 1995  Other photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

	CT OFFI UMBER:	CE:	Galveston D-18983					
Sta Cot Cer App Nar	te: unty: nter coordi proximate me of near	Texas Cameron nates of sit size of are est waterw	te (latitude/longitua (parcel) reviewe ay: Brownsville wer Laguna Madre	ed, includir Ship Chan	ng uplands: 20.0			
			RMINATION	57	D . 1231	1 2006		
Col	mpietea:	Site visit	determination (s)		Date: 13 Nove Date(s):	mber 2006		
Jur	isdictiona	l Determi	nation (JD):					
	Prelimin United S	ary JD - Ba tates" and/	ased on available	informatio ters of the	on, <u>there appea</u> United States" on	ar to be (or) the the project site. A	ere appear to be n A preliminary JD i	o "waters of the is not appealable
$\boxtimes$		d JD – An I that apply		n appealab	le action (Referer	ace 33 CFR part 33	<del>3</del> 1).	
			gable waters of the Approximate size			1 by 33 CFR part 3 0 acre.	29 and associated	guidance) within
			ers of the United S proximate size of			R part 328 and ass	sociated guidance)	) within the
	☐ There	e are "isolo				lands" within the r Bird Rule Informa		etermination of No
	Waters The pres	defined un ence of wa	ters that are subje	t 329 as "r	navigable waters  bb and flow of the	of the United Sta e tide and/or are propreign commerce.		ave been used in
	(1) The pinterstate (2) The pinterstate (3) The pinterstate (3) The pinterstate (3) The pinterstate (4) Pinterstate (4) Pinterstate (5) The pinterstate (6) The pinterstate (5) The pinterstate (6) The pinterstate (7) The pinter	oresence of or foreign oresence of oresence of , wetlands, on of which which are of from which which are undments oresence of	waters, which are commerce, include interstate waters fother waters such, sloughs, prairie he could affect into recould be used by fish or shellfish or could be used of waters otherwise a tributary to a we ferritorial seas.	e currently ding all waincluding has intrast potholes, we erstate comy interstate are or coul for industri- se defined vater identi	used, or were use atters which are su interstate wetland ate lakes, rivers, se wet meadows, play merce including or foreign travel- ld be taken and so ial purposes by in as waters of the U fied in (1) – (4) a	streams (including ya lakes, or natural any such waters (cers for recreational old in interstate or fudustries in interstauts.	intermittent stream ponds, the use, deheck all that apply or other purposes foreign commerce ate commerce.	e. ms), mudflats, legradation or y): s.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Site located on commercial channel that consists of waters with tidal connection to Laguna Madre

## FILE NUMBER: D-18983

	Ordinary High Water Mark indicated by:  I clear, natural line impressed on the bank I the presence of litter and debris Changes in the character of soil Changes in the character of soil Shelving Other: hydrophytic vegetation  Ordinary High Water Mark indicated by: High Tide Line indicated by: Oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other: Other:
⊠	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
'e'	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Bas To	The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Project involves directional drilling under levee for elevated ditch. Other (explain):
	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated, prepared by (company):  This office does not concur with the delineation report, dated, prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic map: Palmito Hill, Texas  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Autural Resources Conservation Service Soil Survey:  National wetlands inventory maps:  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Name & Date): USDA, 1995  Other photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: Galveston FILE NUMBER: 14392(06)/2077 PROJECT LOCATION INFORMATION: State: Texas County: Kleberg Center coordinates of site (latitude/longitude): 27-16-30.20 E; 97-42-11.76 N Approximate size of area (parcel) reviewed, including uplands: 46.0 acres. Name of nearest waterway: Laguna De Los Olmos Name of watershed: Baffin Bay JURISDICTIONAL DETERMINATION Completed: Desktop determination Date: 13 November 2006 Site visit(s) Date(s): Jurisdictional Determination (JD): Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: ☑ There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: <u>0.034</u> acre. There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: <u>0.00</u> acre. There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: Waters defined under 33 CFR part 329 as "navigable waters of the United States": The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (2) The presence of interstate waters including interstate wetlands<sup>1</sup>. (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply): (i) which are or could be used by interstate or foreign travelers for recreational or other purposes. (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce. (iii) which are or could be used for industrial purposes by industries in interstate commerce. (4) Impoundments of waters otherwise defined as waters of the US. (5) The presence of a tributary to a water identified in (1) - (4) above. (6) The presence of territorial seas. (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Site consists of waters with tidal connection to Baffin Bay.

# FILE NUMBER: 14392(06)/2077

	eral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  □ clear, natural line impressed on the bank □ the presence of litter and debris □ changes in the character of soil □ destruction of terrestrial vegetation □ other: hydrophytic vegetation
Ø	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
2 30	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
	is For Not Asserting Jurisdiction:  The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Project involves directional drilling under levee for elevated ditch.  Other (explain):
$\boxtimes$	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated, prepared by (company):  This office does not concur with the delineation report, dated, prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic map: Riviera Beach, Texas  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Autural Resources Conservation Service Soil Survey:  National wetlands inventory maps: Riviera Beach, Texas  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Name & Date): USDA, 1995, TxGLO 2006  Other photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: CESWG-PE-RE

FILE NUMBER: 24415

PROJECT LO	CATION INFORMATION:	
State:	Texas	
County:	Brazoria	
Center coo	rdinates of site (latitude/longitude):	Latitude 28° 56' 19"N; Longitude 95° 20' 34"W (NAD 27)
Approxima	te size of area (parcel) reviewed, includi	ng uplands: acres.
	earest waterway: Brazos River Harbor	

## Jl

Name of watershed: Austin-Oyster Huc: 12040205

JRISD	ICTION	AL DETERMINATION		
Con	npleted:	Desktop determination	X	Date: 13 November 2006
		Site visit(s)		Date(s):
Jur	isdictions	l Determination (JD):		
	United S			a, $\square$ there appear to be (or) $\square$ there appear to be no "waters of the United States" on the project site. A preliminary JD is not appealable
×	• •	d JD – An approved JD is a l that apply:	n appealable	e action (Reference 33 CFR part 331).
		e are "navigable waters of the wed area. Approximate size		tates" (as defined by 33 CFR part 329 and associated guidance) within tional area:
		e are "waters of the United area. Approximate size of		defined by 33 CFR part 328 and associated guidance) within the all area:
	Ther	e are "isolated, non-navigat	ble, intra-sta	ate waters or wetlands" within the reviewed area.

## BASIS OF JURISDICTIONAL DETERMINATION:

Jurisdiction.

- Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No

- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- [1] The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
    - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
    - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
    - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
  - (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
  - (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Brazos River Harbor is a navigable water of the U.S.

FILE NUMBER: 24415

	eral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:  High Tide Line indicated by: oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other:
	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Bas	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
$\boxtimes$	Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):  REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):  Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  In this office concurs with the delineation report, dated prepared by (company):  This office does not concur with the delineation report, dated prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Freeport, Texas  U.S. Geological Survey 7.5 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 16 Minute Historic quadrangles:  U.S. Geological Survey 17.5 Minute Historic quadrangles:  U.S. Geological Survey 18 Minute Historic quadrangles:  U.S. Geological Survey 19 Minute Historic quadrangles:  U.S. Geological Survey 19 Minute Historic quadrangles:  U.S. Geological Survey 10 Minute Historic

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG FILE NUMBER: D-12863/3

FILE N	UMBER:	D-12863/	3			
PROJE	CT LOCA	ATION IN	FORMATIO	ON:		
Sta Co Ce Ap Na	te: unty: nter coordi proximate	Texas Harris nates of si size of are	te (latitude/lo	ongitude): viewed, includir eek	Lat: 29-36-42.4602 N ng uplands: 17 acres.	Long: 95-18-6.0093 W
				•		
			RMINATIO determination (s)		Date: 13 November 200 Date(s):	6
Jui	isdictiona	l Determi	nation (JD):			
	United S	tates" and	ased on avail for "navigable part 331).	able information waters of the	n, \( \square\) there appear to be (of United States" on the projection.	or) there appear to be no "waters of the ct site. A preliminary JD is not appealable
×		d JD – An I that appl		is an appealab	le action (Reference 33 CF	R part 331).
				of the United S size of jurisdic		FR part 329 and associated guidance) within
	There reviewed	e are "wate l'area. Ap	ers of the Uni proximate siz	ted States" (as te of jurisdiction	defined by 33 CFR part 32 nal area: 0.12 acre.	28 and associated guidance) within the
	<b>⊠</b> There	e are "isol 🔀		pported by SW	tate waters or wetlands" wi ANCC/Migratory Bird Rul	thin the reviewed area. e Information Sheet for Determination of No
A.	Waters of	<b>defined ur</b> ence of wa	ider 33 CFR ters that are s	subject to the eb	navigable waters of the Unob and flow of the tide and/ort interstate or foreign con	or are presently used, or have been used in
B. 3	(1) The printerstate (2) The properties (2) The properties (2) The properties (3) The properties (2) The properties (3) The properties (4) The properties (4) The properties (5) The pro	oresence of or foreign presence of oresence of a, wetlands on of which which are of	f waters, which a commerce, if interstate waters f other waters , sloughs, pra th could affect fr could be us an fish or shell	ch are currently including all waters including a such as intrastatirie potholes, wit interstate comed by interstate are or coul	aters which are subject to the interstate wetlands. Attending the lakes, rivers, streams (invet meadows, playa lakes, of merce including any such to ror foreign travelers for recommendations.	past, or may be susceptible to use in the ebb and flow of the tide.  Including intermittent streams), mudflats, or natural ponds, the use, degradation or waters (check all that apply):  I reational or other purposes.  I state or foreign commerce.

(4) Impoundments of waters otherwise defined as waters of the US.
(5) The presence of a tributary to a water identified in (1) – (4) above.
(6) The presence of territorial seas.
(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable

waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to

determination:

	FILE NUMBER: D-12863/3
Lat 選	Ordinary High Water Mark indicated by:  Clear, natural line impressed on the bank  Changes in the character of soil  Cestruction of terrestrial vegetation  Shelving  High Tide Line indicated by:  High Tide Line indicated by:  Oil or scum line along shore objects  fine shell or debris deposits (foreshore)  physical markings/characteristics  tidal gages  other:
	Mean High Water Mark indicated by:  survey to available datum; physical markings; vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Bas E	The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased.
	Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
	Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):
DATA I	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: 1995 Pearland, Tex.  U.S. Geological Survey 7.5 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Actual Resources Conservation Service Soil Survey:  National wetlands inventory maps:  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date): Harris County Panel 48201C1035K dated 20 April 2000 100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Name & Date):  Other photographs (Date):
	Advanced Identification Wetland maps: Site visit/determination conducted on: Applicable/supporting case law: Other information (please specify): Corps of Engineers' jurisdictional determination file D-12863.

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** Galveston District **FILE NUMBER:** SWG-06-07-058

## PROJECT LOCATION INFORMATION:

State: Texas County: Harris

Center coordinates of site (latitude/longitude): 29.7559 N / 95.3130 W Approximate size of area (parcel) reviewed, including uplands: 0.002 acres.

Name of nearest waterway: Buffalo Bayou Name of watershed: Buffalo Bayou

## JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)

X

Date: 14 November 2006

Date(s):

#### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, \( \subseteq \text{ there appear to be (or) } \subseteq \text{ there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.002-acre.

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

## BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
  - (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

2 FILE NUMBER: SWG-06-07-058 Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329) Ordinary High Water Mark indicated by: High Tide Line indicated by: oil or scum line along shore objects clear, natural line impressed on the bank fine shell or debris deposits (foreshore) the presence of litter and debris changes in the character of soil physical markings/characteristics ☐ tidal gages destruction of terrestrial vegetation shelving other: other: Mean High Water Mark indicated by: ✓ survey to available datum; ✓ physical markings; ✓ vegetation lines/changes in vegetation types. Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: **Basis For Not Asserting Jurisdiction:** The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States: Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain): DATA REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply): Maps, plans, plots or plat submitted by or on behalf of the applicant. Data sheets prepared/submitted by or on behalf of the applicant. This office concurs with the delineation report, dated , prepared by (company): This office does not concur with the delineation report, dated , prepared by (company): Data sheets prepared by the Corps. Corps' navigable waters' studies: U.S. Geological Survey Hydrologic Atlas: U.S. Geological Survey 7.5 Minute Topographic maps: Settegast, Texas U.S. Geological Survey 7.5 Minute Historic quadrangles: U.S. Geological Survey 15 Minute Historic quadrangles: USDA Natural Resources Conservation Service Soil Survey: National wetlands inventory maps: State/Local wetland inventory maps: FEMA/FIRM maps (Map Name & Date): (NGVD) 100-year Floodplain Elevation is:

П

Aerial Photographs (Name & Date):

Advanced Identification Wetland maps: Site visit/determination conducted on: Applicable/supporting case law: Other information (please specify):

Other photographs (Date):

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** Galveston District **FILE NUMBER:** SWG-06-13-036

#### PROJECT LOCATION INFORMATION:

State: Texas County: Harris

Center coordinates of site (latitude/longitude): 29.7717 N / 95.4720 W Approximate size of area (parcel) reviewed, including uplands: 0.005 acres.

Name of nearest waterway: Buffalo Bayou Name of watershed: Bufalo Bayou

#### JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Site visit(s)

Date: 14 November 2006

Date(s):

#### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, \( \subseteq \text{there appear to be (or)} \subseteq \text{there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.005-acre.

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

# BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

FILE NUMBER: SWG-06-13-036

	teral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:    clear, natural line impressed on the bank   oil or scum line along shore objects   fine shell or debris deposits (foreshore)   physical markings/characteristics   destruction of terrestrial vegetation   tidal gages   other:
	Mean High Water Mark indicated by:  ⊠ survey to available datum; ⊠ physical markings; ⊠ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Bas	The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain):
DATA I	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated prepared by (company):  This office does not concur with the delineation report, dated prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Settegast, Texas  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Datural Resources Conservation Service Soil Survey:  National wetlands inventory maps:  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** Galveston District

**FILE NUMBER: 24409** 

### PROJECT LOCATION INFORMATION:

State:

Texas

County:

Jefferson Center coordinates of site (latitude/longitude):

29.7235 N / 93.8682 W

Approximate size of area (parcel) reviewed, including uplands: 0.04 acres.

Name of nearest waterway: Sabine-Neches Waterway

Name of watershed:

Sabine-Neches River

## JURISDICTIONAL DETERMINATION

Completed: Desktop determination

Date: 14 November 2006

Date(s):

### Jurisdictional Determination (JD):

Site visit(s)

Preliminary JD - Based on available information, \( \subseteq \text{ there appear to be (or) } \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ the no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ the no "waters of the preliminary JD - Based on available information, \( \subseteq \text{ the no "waters of the no" waters of the no" \) United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.04-acre.

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

## BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
- (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

**FILE NUMBER: 24409** 

	eral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  □ clear, natural line impressed on the bank □ the presence of litter and debris □ changes in the character of soil □ destruction of terrestrial vegetation □ shelving □ other:  □ other: □ High Tide Line indicated by: □ oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other:
	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):
DATA RI	EVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):  Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Texas Point, Texas  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Autural Resources Conservation Service Soil Survey:  National wetlands inventory maps:  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Name & Date):  Other photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify):

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG **FILE NUMBER:** 24416

ΡĽ	n	IFC	TI	OCA	TION	INFORM	MATION:

State: Texas

County: Harris-Montgomery

Center coordinates of site (latitude/longitude): 30.0226N; 95.2790W Approximate size of area (parcel) reviewed, including uplands: 5 acres.

Name of nearest waterway: Spring Creek Name of watershed: Spring Creek

## JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date: 14 November 2006

Site visit(s) Date(s):

## Jurisdictional Determination (JD):

Preliminary JD - Based on available information, \( \subseteq \text{there appear to be (or) } \subseteq \text{there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 2.2 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

#### BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

FILE NUMBER: 24416

	teral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:  High Tide Line indicated by: oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other:							
	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.							
2	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:							
Ba	The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain):							
DATA I	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Maedan, Texas  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Datural Resources Conservation Service Soil Survey:  National wetlands inventory maps:  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify):							

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG-PE-RE FILE NUMBER: SWG-06-07-057

Sta	ECT LOCATION INFORMATION: ate: Texas				
Ce Ap Na	bunty: Brazoria cnter coordinates of site (latitude/longitude): Latitude 29° 31' 34.93"N; Longitude -95° 24' 03.66"W coproximate size of area (parcel) reviewed, including uplands: acres. come of nearest waterway: Mustang Bayou come of watershed: Austin-Oyster Huc: 12040205				
	DICTIONAL DETERMINATION  Desktop determination				
Ju	risdictional Determination (JD):				
	Preliminary JD - Based on available information, \( \subseteq \text{there appear to be (or) } \subseteq there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).				
×	Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:				
	There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) with the reviewed area. Approximate size of jurisdictional area:	in			
	There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:				
	There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of Jurisdiction.	Vо			
A.	OF JURISDICTIONAL DETERMINATION: Waters defined under 33 CFR part 329 as "navigable waters of the United States": The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.	ı			
	(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.				
	(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):  (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.  (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.				
	(6) The presence of territorial seas.	is.			

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Mustang Bayou runs into Persimmon Bayou, a tributary of New Bayou and a navigable water of the U.S.

FILE NUMBER: SWG-06-07-057

	Ordinary High Water Mark indicated by:  I clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:  I changes in the character of soil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other:
****	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Basi	The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land fo the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
	Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
	Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):
20 20 20 20 20 20 20 20 20 20 20 20 20 2	EVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):  Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Almeda, Texas  U.S. Geological Survey 7.5 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Actional wetlands inventory maps:  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Name & Date):  Other photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: CESWG-PE-RE **FILE NUMBER: 17061(06)** PROJECT LOCATION INFORMATION: State: Texas County: Brazoria Center coordinates of site (latitude/longitude): Latitude 29° 0' 47.90"N; Longitude -95° 19' 13.51"W Approximate size of area (parcel) reviewed, including uplands: acres. Name of nearest waterway: Oyster Creek Austin-Oyster Huc: 12040205 Name of watershed: JURISDICTIONAL DETERMINATION X Completed: Desktop determination Date: 14 November 2006 Site visit(s) Date(s): Jurisdictional Determination (JD): Preliminary JD - Based on available information, \( \square\$ there appear to be (or) \( \square\$ there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: Waters defined under 33 CFR part 329 as "navigable waters of the United States": The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) – (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Oyster Creek is a navigable water of the U.S.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

FILE NUMBER: 17061(06)

	Ordinary High Water Mark indicated by:  clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving other:  High Tide Line indicated by: oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other:
78	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Bas	The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):
	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated , prepared by (company):  This office does not concur with the delineation report, dated , prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Oyster Creek, Texas  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Actual Resources Conservation Service Soil Survey:  National wetlands inventory maps:  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Name & Date):  Other photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify): Previous authorizations

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., осситенсе of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

	NUMBER:			2		
St Co Co A <sub>I</sub> Na	ect LOCA ate: ounty: enter coordi opproximate ame of near ame of wate	Texas Matagore inates of si size of are est waters	da te (latitude a (parcel) i vay: Caney	/longitude reviewed, Creek		•
	DICTION. ompleted:		determinat		⊠ □	Date: 15 November 2006 Date(s):
Ju	risdictiona	ıl Determi	ination (JI	D):		
	Preliminary JD - Based on available information, \( \subseteq \text{ there appear to be (or) } \subseteq  there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).					there appear to be (or) there appear to be no "waters of the nited States" on the project site. A preliminary JD is not appealable
×	Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:					
	There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:					
	☑ There	<i>are</i> "wat l area. Ap	ers of the U proximate	Jnited Sta	tes" (as d	efined by 33 CFR part 328 and associated guidance) within the al area:
	■ There	e are "isol	ated, non-in- Decision Jurisdiction	supported	intra-sta by SWA	te waters or wetlands" within the reviewed area.  NCC/Migratory Bird Rule Information Sheet for Determination of No.
BASIS A.	The pres	defined un ence of wa	nder 33 Cl ters that ar	FR part 3 re subject	29 as "na to the ebb	vigable waters of the United States": and flow of the tide and/or are presently used, or have been used in the interstate or foreign commerce.
B. <b>★</b>	(1) The printerstate (2) The printerstate (3) The printerstate (3) The printerstate (3) The printerstate (4) (1) volume (4) volume (4	oresence of corresence of corresponding to	f waters, we commerce from the commerce from the could after the could be the fish or shown to could be the fish or shown the could be	hich are controlled waters in ers such a prairie pot fect inters used by itselfish are	surrently using all water cluding in a sintrastate tholes, we tate commenter state or could	s "waters of the United States": sed, or were used in the past, or may be susceptible to use in ers which are subject to the ebb and flow of the tide. terstate wetlands. e lakes, rivers, streams (including intermittent streams), mudflats, t meadows, playa lakes, or natural ponds, the use, degradation or herce including any such waters (check all that apply): or foreign travelers for recreational or other purposes. be taken and sold in interstate or foreign commerce.

(4) Impoundments of waters outer water (5) The presence of a tributary to a water identified in (1) – (4) above.
(6) The presence of territorial seas.
(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands. waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: San Bernard River is a navigable water of the U.S.

				FILE NUMBER: 14392(06)/2091			
	Ordina      cl     th     cl     de	tent of Jurisdiction: (Reference: 33 CFR parts 3 ary High Water Mark indicated by: lear, natural line impressed on the bank ne presence of litter and debris hanges in the character of soil estruction of terrestrial vegetation helving ther:	High	Tide Line indicated by: oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gages other:			
		High Water Mark indicated by: vey to available datum; ☐ physical markings; ☐	vegetation 1	ines/changes in vegetation types.			
34	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:						
Bas	The rev Unable Headqu The Co United	the purpose of obtaining fill, sand, or gravel unle	sis of 33 CFR the following onds or lagoor o upland if the and/or diking such purposes small orname ater for prima dental to cons ess and until the s the definitio crstate comme Natural Resou	part 328.3(a)(3). waters present on the site are not Waters of the as, pursuant to 33 CFR part 328.3. e irrigation ceased. g dry land to collect and as stock watering, irrigation, settling basins, or intal bodies of water created rily aesthetic reasons. struction activity and pits excavated in dry land for the construction or excavation operation is n of waters of the United States found at 33 CFR rce. rces Conservation Service. Explain rationale:			
DATA F	Maps, p Data sh Th Th Data sh Corps' U.S. Go U.S. Go U.S. Go U.S. Go U.S. Go USDA Nationa State/L FEMA 100-yea Aerial 1 Other p Advanc Site vis Applica	WED FOR JURSIDICTIONAL DETERMINA plans, plots or plat submitted by or on behalf of the neets prepared/submitted by or on behalf of the ag its office concurs with the delineation report, date its office does not concur with the delineation report neets prepared by the Corps. navigable waters' studies: eological Survey Hydrologic Atlas: Sargent, Text eological Survey 7.5 Minute Topographic maps: eological Survey 7.5 Minute Historic quadrangles eological Survey 15 Minute Historic quadrangles eological Survey 15 Minute Historic quadrangles Natural Resources Conservation Service Soil Sur al wetlands inventory maps: cocal wetland inventory maps: /FIRM maps (Map Name & Date): ar Floodplain Elevation is: (NGVD) Photographs (Name & Date): chotographs (Date): ced Identification Wetland maps: sit/determination conducted on: able/supporting case law: information (please specify):	he applicant. oplicant. od , preport, dated as	ared by (company): , prepared by (company):			

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

wetlands.

### JURISDICTIONAL DETERMINATION

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** Galveston District FILE NUMBER: D-17317 PROJECT LOCATION INFORMATION: State: Texas County: Aransas Center coordinates of site (latitude/longitude): 28-4-32.6 97-5-8.89 Approximate size of area (parcel) reviewed, including uplands: approx. 33 acres. Name of nearest waterway: Salt Lake Name of watershed: Copano Bay JURISDICTIONAL DETERMINATION Completed: Desktop determination Date: 15 November 2006 Site visit(s) Date(s): Jurisdictional Determination (JD): Preliminary JD - Based on available information, \( \subseteq \text{there appear to be (or) } \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be (or) } \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information, \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information \( \subseteq \text{there appear to be no "waters of the preliminary JD - Based on available information \( \subseteq \subseteq \) United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: approximately 5 acre. 🖾 There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: approximately 18 acre. There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: Waters defined under 33 CFR part 329 as "navigable waters of the United States": The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": n

$\boxtimes$	(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in
	interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
	(2) The presence of interstate waters including interstate wetlands <sup>1</sup> .
	(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats,
	sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or
	destruction of which could affect interstate commerce including any such waters (check all that apply):
	(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
	(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
	(iii) which are or could be used for industrial purposes by industries in interstate commerce.
	(4) Impoundments of waters otherwise defined as waters of the US.
	(5) The presence of a tributary to a water identified in (1) – (4) above.
	(6) The presence of territorial seas.
$\boxtimes$	(7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Wetlands adjacent to Salt Lake, a natural waterbody with an established connection to Copano Bay, a navigable waterway

		FILE NUMBER: D-17317			
	clear, natural line impressed on the bank oil or the presence of litter and debris fine sl				
E	<ul> <li>Mean High Water Mark indicated by:</li> <li>         □ survey to available datum; □ physical markings; □ vegetation lines/cl</li> </ul>	hanges in vegetation types.			
	Wetland boundaries, as shown on the attached wetland delineation map and	/or in a delineation report prepared by:			
Bas	Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).				
	☐ This office does not concur with the delineation report, dated , pr Data sheets prepared by the Corps. Corps' navigable waters' studies: ☐ U.S. Geological Survey Hydrologic Atlas: ☐ U.S. Geological Survey 7.5 Minute Topographic maps: Rockport ☐ U.S. Geological Survey 7.5 Minute Historic quadrangles: ☐ U.S. Geological Survey 15 Minute Historic quadrangles: ☐ V.S. Geological Survey 15 Minu	by (company): repared by (company): and Aransas Counties			

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: Galveston FILE NUMBER: 08620(08) PROJECT LOCATION INFORMATION: State: Texas County: Cameron Center coordinates of site (latitude/longitude): 25 57 46.3361; 97 22 12.3057 Approximate size of area (parcel) reviewed, including uplands: 25 acres. Name of nearest waterway: Brownsville Ship Channel Name of watershed: South Laguna Madre JURISDICTIONAL DETERMINATION Date: 16 November 2006 Completed: Desktop determination  $\boxtimes$ 7 Site visit(s) Date(s): Jurisdictional Determination (JD): Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: ☑ There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 1.25 acres. ☐ There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: <u>acre</u>. ☐ There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No BASIS OF JURISDICTIONAL DETERMINATION: Waters defined under 33 CFR part 329 as "navigable waters of the United States": The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
 (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply): (i) which are or could be used by interstate or foreign travelers for recreational or other purposes. (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce. (iii) which are or could be used for industrial purposes by industries in interstate commerce. (4) Impoundments of waters otherwise defined as waters of the US.  $\Box$  (5) The presence of a tributary to a water identified in (1) – (4) above. (6) The presence of territorial seas. (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Tidal waters of the Brownsville Ship Channel.

# FILE NUMBER: 08620(08)

	eral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  Ordinary High Water Mark indicated by:  □ clear, natural line impressed on the bank □ the presence of litter and debris □ changes in the character of soil □ destruction of terrestrial vegetation □ other: hydrophytic vegetation
⊠	Mean High Water Mark indicated by:  ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
	Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:
Bas	is For Not Asserting Jurisdiction:  The reviewed area consists entirely of uplands.  Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  Artificially irrigated areas, which would revert to upland if the irrigation ceased.  Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  Isolated, intrastate wetland with no nexus to interstate commerce.  Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  Other (explain):
	Maps, plans, plots or plat submitted by or on behalf of the applicant.  Data sheets prepared/submitted by or on behalf of the applicant.  This office concurs with the delineation report, dated, prepared by (company):  This office does not concur with the delineation report, dated, prepared by (company):  Data sheets prepared by the Corps.  Corps' navigable waters' studies:  U.S. Geological Survey Hydrologic Atlas:  U.S. Geological Survey 7.5 Minute Topographic maps: Palmito Hill, TX  U.S. Geological Survey 7.5 Minute Historic quadrangles:  U.S. Geological Survey 15 Minute Historic quadrangles:  U.S. Autural Resources Conservation Service Soil Survey:  National wetlands inventory maps:  State/Local wetland inventory maps:  FEMA/FIRM maps (Map Name & Date):  100-year Floodplain Elevation is: (NGVD)  Aerial Photographs (Name & Date): USDA 1995  Other photographs (Date):  Advanced Identification Wetland maps:  Site visit/determination conducted on:  Applicable/supporting case law:  Other information (please specify):

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** CESWG FILE NUMBER: 14114(05)/877

#### PROJECT LOCATION INFORMATION:

State: Texas County: Harris

Center coordinates of site (latitude/longitude): 29.6256N; 95.0203 Approximate size of area (parcel) reviewed, including uplands: 0.01 acres.

Name of nearest waterway: Taylor Bayou Name of watershed: Galveston Bay

#### JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date: 17 November 2006

Site visit(s) Date(s):

### Jurisdictional Determination (JD):

Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.01 acre.

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

## BASIS OF JURISDICTIONAL DETERMINATION:

2

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
    - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
    - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
    - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) (4) above.
- (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

2 FILE NUMBER: 14114(05)/877 Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329) High Tide Line indicated by: Ordinary High Water Mark indicated by: oil or scum line along shore objects clear, natural line impressed on the bank fine shell or debris deposits (foreshore) the presence of litter and debris changes in the character of soil physical markings/characteristics destruction of terrestrial vegetation tidal gages shelving other: other: Mean High Water Mark indicated by: ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types. Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Basis For Not Asserting Jurisdiction: The reviewed area consists entirely of uplands. Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States: Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. Artificially irrigated areas, which would revert to upland if the irrigation ceased. П Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons. П Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a). Isolated, intrastate wetland with no nexus to interstate commerce. Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Other (explain): DATA REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply): Maps, plans, plots or plat submitted by or on behalf of the applicant. Data sheets prepared/submitted by or on behalf of the applicant. ☐ This office concurs with the delineation report, dated , prepared by (company): This office does not concur with the delineation report, dated , prepared by (company): Data sheets prepared by the Corps. Corps' navigable waters' studies: U.S. Geological Survey Hydrologic Atlas: U.S. Geological Survey 7.5 Minute Topographic maps: U.S. Geological Survey 7.5 Minute Historic quadrangles: U.S. Geological Survey 15 Minute Historic quadrangles: USDA Natural Resources Conservation Service Soil Survey: National wetlands inventory maps: State/Local wetland inventory maps: FEMA/FIRM maps (Map Name & Date): 100-year Floodplain Elevation is: (NGVD) Aerial Photographs (Name & Date):

Other photographs (Date):

Advanced Identification Wetland maps: Site visit/determination conducted on: Applicable/supporting case law: Other information (please specify):

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.